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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,813	05/30/2001	Gary W. Beall	29785/10000	6617

4743 7590 01/09/2004

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/867,813

**Applicant(s)**

BEALL, GARY W.

**Examiner**

Alton N. Pryor

**Art Unit**

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 9-22, 24, 27-33 and 37-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 24, 40-43 and 50 is/are allowed.
- 6) ☐ Claim(s) 9-12, 15-22, 27-33, 37-39, 44-49 is/are rejected.
- 7) ☐ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejection under 35 U.S.C. 102(b)***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10,12,16,19-21,27,29,32,37,44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Lan et al (EP 846661; 6/10/98) on record. Lan teaches a sorbent composition comprising an intercalate of dodecylpyrrolidone and montmorillonite clay. See page 3 lines 30-52, page 7 lines 25-41. intercalant molecule being connected by ion-dipole interaction. See page 3 line 53 page 4 line 2, page 5 lines 48-56. Lan also teaches that water (carrier) is added to the sorbent composition. See page 3 lines 36-52. Lan also teaches glycerol as a carrier. See page 10 lines 8-14. Lan teaches that the sorbent composition is dispersed in the carrier. See page 6 lines 34-55. The sorbent can be formulated as a cosmetic gel (salve) to be applied to hair (scalp). See page 19 line 45 – page 20 line 41. It is inherent that the prior art composition would have the cation exchange capacity of at least 75 meq / 100 grams since the prior art composition and the instant composition are the same. It is also inherent that the prior art method of using the composition would deactivate the allergen and reduce the allergic reaction once applied to skin (scalp) since the prior art and instant methods are similar. See abstract, page 3 line 30 - page 4 line 2, page 5 lines 10-27, page 6 lines 11-45, page 7 lines 22-35, page 9 lines 43-57.

***Claim Rejection under 35 U.S.C. 103(a)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9,11,15,17,18,22,28,30,31,33,38,39,48,49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lan as applied to claims 10,12,16,19-21,27,29,32,37,44-47 above. See 35 USC 102(b) rejection above. Lan teaches all that is recited in claims 9,11,15,17,18,22,28,30, 31,33,38,39,48,49 except for the instant amounts of ingredients (surface modifier, solvent, clay). It would have been obvious to one having ordinary skill in the art to determine the optimum amounts of ingredients through routine experimentation. One would have been motivated to do this in order to make a sorbent composition that would effectively reduce the reaction of humans to allergens.

***Claim Objection / Allowable Subject Matter***

Claims 13,14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 24,40-43,50 are allowable. The prior art does not teach or suggest the instant invention being applied to clothes, shoes, or pets.


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***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

  
Alton Pryor **ALTON N. PRYOR**  
**PRIMARY EXAMINER**  
Primary Examiner, AU 1616  
1/6/04